UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,706	02/05/2002	Michael John Curry	1049.001US1	6456

23441   7590   05/05/2004

LAW OFFICES OF MICHAEL DRYJA
704 228TH AVENUE NE
PMB 694
SAMMAMISH, WA 98074

EXAMINER
NGUYEN, VAN H

ART UNIT	PAPER NUMBER
2126	11

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No. 09/683,706	Applicant(s) CURRY ET AL.
	Examiner VAN H NGUYEN	Art Unit 2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>17 February 2004</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2 and 10*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Pursuant to Applicant's arguments filed February 17, 2004, the Examiner concedes that a

restriction requirement is unnecessary. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

3.   Claims 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

The following terms lack antecedent basis:

(i) *the operating system* (in claim 14)

(ii) *the application program* (in claims 15-18)

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-2, 8-14, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by

Budge et al. (U.S. 6, 564, 248).

6.   Budge et al. was provided by Applicant in the IDS filed February 17, 2004.

7.   As to claim 12, Budge teaches the invention as claimed including a method comprising:

- detecting when an event *(e.g., the RECORD button 610 is "pressed," that is, activated*

with a point and click operation of a mouse device; col.6, lines 1-25) related to a predetermined

application program *(e.g., video e-mail software 50 which provides for the creation of video e-*

mail messages and the transfer of those messages; col.3, lines 16-42 and fig. 6) occurs;

in response to detecting when the event has occurred, presenting one or more audio or

video controls for use in conjunction with the predetermined application program, such that an

audio or video program encompassing the one or more audio or video controls is integrated with

the predetermined application program *(e.g., To begin recording a video e-mail message, the*

RECORD button 610... the STOP button 620... the SAVE VMail button 630... the SAVE file

button 640...the PLAY button 650... the LOAD button 660 allows a user to select which stored

message to watch, and the MAIL button 670 is pressed to immediately send a recorded message;

col.6, lines 1-25 and fig.6).

8.   As to claim 13, Budge teaches integrating the one or more audio or video controls within

a window of the predetermined application program *(fig.6 and associated text).*

9.   As to claim 14, Budge teaches creating an audio or video program window through the

operating system in which the one or more audio or video controls are located *(e.g., In addition*

to operating system software, the sending system PC 10 executes video e-mail software 50 which

provides for the creation of video e-mail messages and the transfer of those messages; col.3,

lines 37-42 and col.6, lines 1-25).

10.   As to claim 19, note the rejection of claim 12 above. Claim 19 is the same as claim 12,

except claim 19 is a computer-readable medium claim and claim 12 is a method claim.

11.   As to claim 20, Budge teaches the predetermined application program comprises, among

other things, an email program *(e.g., video e-mail software; col.3, lines 37-40).*

12.   As to claim 1, Budge teaches the invention as claimed including a system *(video e-mail*

system; col.2, lines 24-32) comprising:

        - an operating system *(e.g., a processor; col.1, lines 38-55);*

        - an application program running on the operating system *(col.1, lines 38-55);* and

        - a video program running on the operating system *(col.1, lines 38-55 and col.3, lines 16-*

42) the video program integrated with the application program such that the application program

is unaware that the video program has been integrated therewith *(fig.6 and associated text).*

        such that a user of the application program interacts with the video program as though the

video program were part of the application program *(col.2, lines 23 and col.5, line 59-col.6, lines*

25).

13.   As to claim 2, Budge teaches the video program is integrated with the application

program by detecting when an event related to the application program occurs *(col.6, lines 1-25*

and fig.6).

14.   As to claim 8, Budge teaches the video program runs in a window created through the
operating system and related to a window of the application program created through the
operating system *(fig.6 and associated text)*.

15.   As to claim 9, refer to claim 20 above for rejection.

16.   As to claim 10, Budge teaches the video program comprises, among other things, a video
player program *(e.g., the video e-mail player software; col.6, lines 1-19)*.

17.   As to claim 11, Budge teaches the video program comprises, among other things, an
audio-and-video program *(e.g., "video e-mail" contains audio and video; col.1, lines 38-55 and
fig.6)*.

Claim Rejections - 35 USC § 103

18.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill
> in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

19.   Claims 3-7 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Budge in view of **Poreh et al.** (U.S. 5,889,518).

20.   As to claim 15, Budge does teach a predetermined application program, but does not
explicitly teach subclassing into a window of the application program.

Poreh teaches subclassing into a window of the application program *(e.g., subclassing the selected window; col.9, lines 33-44 and fig.6)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge because Poreh's teaching would have provided the capability for gaining control over the application's window object.

21.   As to claim 16, Budge does teach a predetermined application program, but does not explicitly teach hooking into a window of the application program.

Poreh teaches hooking into a window of the application program *(e.g., GUI API function hooking; col.9, lines 1-32 and fig.6)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge because Poreh's teaching would have provided the capability for gaining control over the application's window object.

22.   As to claim 17, Budge does teach a predetermined application program, but does not explicitly teach employing a customization mechanism of the application program.

Poreh teaches employing a customization mechanism of the application program *(e.g., windows customization; col.7, lines 6-30 and fig.4)*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge because Poreh's teaching would have provided the capability for allowing the user to modify any window attributes of the selected window.

23.   As to claim 18, Budge does teach a predetermined application program and a GUI, but

does not explicitly teach employing application programming interfaces of the application

program.

Poreh teaches employing application programming interfaces *(e.g., API functions; col.9,*

lines 1-32).

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Poreh and Budge because Poreh's teaching

would have provided the capability for controlling the processes of the graphical user interface.

24.   As to claims 3-6, note the rejection of claims 15-18 above. Claims 3-6 are the same as

claims 15-18, except claims 3-6 are systems claims and claims 15-18 are method claims.

25.   As to claim 7, Budge does teach the video program, the application program, and the

operating system, but does not explicitly teach the video program modifies contents of a window

of the application program created through the operating system.

Poreh teaches the video program modifies contents of a window of the application

program created through the operating system *(col.7, lines 6-30 and fig.4).*

It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine the teachings of Poreh and Budge because Poreh's teaching

would have provided the capability for allowing the user to modify any window attributes of the

selected window.

Response to Arguments

26.   Applicant's arguments filed February 17, 2004 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

27.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

28.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H NGUYEN whose telephone number is (703) 306-5971. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703) 305-9678.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VHN

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100